

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

<b>DEUTSCHE BANK TRUST</b>	:	
<b>COMPANY AMERICAS, <i>et. al.</i></b>	:	
	:	
<b>Plaintiffs,</b>	:	
	:	
<b>v.</b>	:	<b>Case No. 8:11-cv-01510</b>
	:	
<b>JANICE M. MCGURN, TRUSTEE, <i>et. al.</i></b>	:	
	:	
<b>Defendants.</b>	:	

**DEFENDANTS' ANSWER TO SECOND AMENDED COMPLAINT**

COMES NOW defendant Bresler Family Investors LLC (“BFI” or “defendant”), by and through undersigned counsel and, pursuant to Fed.R.Civ.P. 12 answers the second amended complaint (“SAC”) as follows:

**FIRST DEFENSE**

The SAC fails to state a claim upon which relief can be granted.

**SECOND DEFENSE**

This court lacks personal jurisdiction over the defendant.

**THIRD DEFENSE**

Service of process on the defendant was improper or inadequate.

**FOURTH DEFENSE**

Venue is improper.

**FIFTH DEFENSE**

This court lacks subject matter jurisdiction.

**SIXTH DEFENSE**

The SAC is barred by the applicable statutes of limitations.

**SEVENTH DEFENSE**

The SAC is barred by the equitable doctrine of laches.

**EIGHTH DEFENSE**

The claims in the SAC are barred by accord and satisfaction.

**NINTH DEFENSE**

The claims in the SAC are barred by compromise and settlement.

**TENTH DEFENSE**

The claims in the SAC are barred by payment.

**ELEVENTH DEFENSE**

The claims in the SAC are barred by waiver.

**TWELFTH DEFENSE**

The claims in the SAC are barred by estoppel.

**THIRTEENTH DEFENSE**

The claims in the SAC are barred by bad faith on the part of plaintiffs.

**FOURTEENTH DEFENSE**

The claims in the SAC are barred by unclean hands.

**FIFTEENTH DEFENSE**

The claims in the SAC are barred by contributory negligence.

**SIXTEENTH DEFENSE**

The claims in the SAC are barred by assumption of the risk.

**SEVENTEENTH DEFENSE**

The claims in the SAC are barred by res judicata and collateral estoppel.

**EIGHTEENTH DEFENSE**

The claims in the SAC are barred by a failure of consideration.

**NINETEENTH DEFENSE**

The claims in the SAC are barred by release.

**TWENTIETH DEFENSE**

The claims in the SAC are barred by the misconduct of plaintiffs.

**TWENTY FIRST DEFENSE**

All averments of the SAC not specifically admitted are denied, and strict proof is demanded thereof. Plaintiff responds with particularity and in like-numbered paragraphs to the allegations of the SAC as follows:

**NATURE OF THE ACTION**

1. Denied.
2. The first sentence characterizes the complaint, which speaks for itself. The second sentence is denied.
3. Denied.

4. Denied.
5. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
6. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
7. Denied.
8. Denied
9. Denied.
10. Denied.
11. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
12. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
13. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
14. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

#### **THE PARTIES**

15. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
16. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

17. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
18. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
19. The first sentence is definitional and no response is required. As to the second sentence, defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
20. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
21. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
22. Denied.
23. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
24. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
25. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
26. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
27. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

28. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
29. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
30. The first sentence is definitional and no response is required. As to the second sentence, defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

### **CLASS ALLEGATIONS**

31. This allegation characterizes the SAC and no response is required.
32. This allegation characterizes the SAC and no response is required.
33. Denied.
34. Denied.
35. Denied.
36. Denied.
37. Denied.
38. Denied.

### **JURISDICTION AND VENUE**

39. This allegation calls for a legal conclusion to which no response is required and, to the extent that a response is required, is denied and strict proof is demanded thereof.
40. This allegation calls for a legal conclusion to which no response is required and, to the extent that a response is required, is denied and strict proof is demanded thereof.

41. This allegation calls for a legal conclusion to which no response is required and, to the extent that a response is required, is denied and strict proof is demanded thereof.

#### **FACTUAL BACKGROUND**

42. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

43. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

44. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

45. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

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61. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

62. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
63. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
64. Denied.
65. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
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100. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
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103. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
104. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
105. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.
106. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

107. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

108. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

**COUNT ONE**

109. Defendant adopts and incorporates herein by reference the responses to paragraphs one through 108 of the SAC.

110. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

111. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

112. Denied.

113. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

114. Denied.

**COUNT TWO**

115. Defendant adopts and incorporates herein by reference the responses to paragraphs one through 114 of the SAC.

116. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

117. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

118. Denied.

119. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

120. Denied.

### **COUNT THREE**

121. Defendant adopts and incorporates herein by reference the responses to paragraphs one through 120 of the SAC.

122. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

123. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

124. Denied.

125. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

126. Denied.

### **COUNT FOUR**

127. Defendant adopts and incorporates herein by reference the responses to paragraphs one through 126 of the SAC.

128. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

129. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

130. Denied.

131. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

132. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

133. Denied.

#### **COUNT FIVE**

134. Defendant adopts and incorporates herein by reference the responses to paragraphs one through 133 of the SAC.

135. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

136. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

137. Denied.

138. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

139. Denied.

#### **COUNT SIX**

140. Defendant adopts and incorporates herein by reference the responses to paragraphs one through 139 of the SAC.

141. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

142. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

143. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

144. Denied.

145. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

146. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

147. Denied.

#### **COUNT SEVEN**

148. Defendant adopts and incorporates herein by reference the responses to paragraphs one through 147 of the SAC.

149. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

150. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

151. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

152. Denied.

153. Defendant has insufficient information to form a belief as to the truth of the allegation and therefore denies the same and demands strict proof thereof.

154. Denied.

**PRAYER FOR RELIEF**

**WHEREFORE**, by all these presents, counsel for defendant prays for the following relief:

1. the SAC be dismissed with prejudice;
2. all costs and fees, including attorneys fees, be borne by plaintiffs; and
3. such other and further relief as the court may deem just and proper.

**JURY DEMAND**

Defendant requests trial by jury on all issues so triable.

Respectfully Submitted,

/s/

Rena Schild #4515  
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**CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the foregoing reply to complaint was sent via the court's electronic filing system this 9<sup>th</sup> day of November 2011 to all parties of record.

/s/

Rena Schild